

June 7, 1976

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there is no doubt in my mind but that the Democrats will win next November. But if we become fragmented in an effort to get a candidate, no matter who that candidate may be, it means, of course, that disunity will be the result and the chances of a Democratic victory next November will be negated to that degree.

Mr. RIBICOFF. I thank the distinguished majority leader and the Senator from Alabama.

#### ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m., tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

#### LEAVE OF ABSENCE

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona (Mr. GOLDWATER) be noted as necessarily absent from the Senate until such period as he is able to return.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. HUGH SCOTT. Yes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

#### A DIALOG ON FREEDOM AND INTELLIGENCE—THE "CHILLING EFFECT" OF GOVERNMENT SPYING ON CITIZENS WHO HAVE DONE NO WRONG

Mr. MORGAN. Mr. President, on Friday of last week we began a dialog which I expect to carry on for a number of days on freedom and intelligence in this country. This morning I want to address my remarks during the morning hour to the chilling effects of Government spying on citizens who have done no wrong.

Mr. President, many times during the course of my 15 months on the Select Committee on Intelligence, I was asked to comment on the committee's work. Just as frequently, my comments provoked criticism from those in the audience who found it hard to believe the FBI, IRS, or any other of the intelligence agencies of the Government could do anything wrong. I must say that prior to serving on the select committee, I had shared their skepticism.

Among the questions I was most frequently asked was why should anyone care whether the Government keeps files on them, or sends agents to attend their meetings or opens their mail, if they have not done anything wrong? The idea being that since most of us

are not criminals, we have nothing to fear from the Government.

The question is important, Mr. President, not for the problem it poses, but for what it demonstrates about what we as individuals have come to expect, and accept, from our Government. If there is one thing I hope to accomplish during my tenure on the new oversight committee it is to rekindle in people's minds the notion of our constitutional forbearers that, barring some overriding public purpose, the rights and liberties of the individual shall be secure against the Government. This was the notion that caused the State of North Carolina to withhold its ratification of the U.S. Constitution until a Bill of Rights was adopted by the Congress. It was the same notion that prompted North Carolinians to adopt their own Halifax resolves and Mecklenburg declaration of independence, two of the earliest demands of the Colonists for a guarantee of individual liberty.

When people ask me, therefore, why we should care if the Government intrudes itself into our lives if we have nothing to hide, I find it particularly disheartening. At the very least, the question shows a lack of understanding of how Government works and what it can do to an individual. But even more important, it shows an indifference to those hard-won rights and privileges that 200 years ago, Americans were willing to fight for, and die for.

Times have changed, and by-and-large Government today has the trust of the people. Ironically, however, never before has the Government been so enmeshed in the lives of its citizens. As society has grown more complicated, the Government's role has expanded. As technology has improved, so has the capacity of the Government improved to insinuate itself into lives of individuals. Few people seem to worry however, about the impact these developments have on their privacy or other rights guaranteed by the Constitution. They see nothing wrong, for instance, in the Government keeping records of their lawful activities, since, as they tell me, they are not doing anything wrong and have nothing to hide.

But this answer fails to take account of the literally hundreds of ways the Government has of taking an action against an individual short of prosecuting him for a crime. Among other things, the Government can audit your taxes, assess your property, furnish information to your employer, deny you Federal benefits, deny you a job, deny you a security clearance, furnish information to potential creditors, or deny you some special status.

The information that Government collects about an individual can be the basis for literally hundreds of administrative decisions—most of which are not made by any elected official or reviewed by any judge. They are made by some Government bureaucrat who is virtually unaccountable for his decisions. If he does not like your politics, or his boss does not like your politics, you may find yourself turned down for a job or denied some Federal benefit.

Moreover, we have seen people sub-

jected to more than simply administrative harassment. In the course of its COINTELPRO, the FBI attempted to break up marriages; tried to foment violence between rival groups; attempted to discredit individuals with their employers and financial backers; planted false news items about people in the press; prevented people from getting honorary degrees and speaking on college campuses; and, in the case of Martin Luther King, attempted to prevent his seeing the Pope.

It has, in short, been amply demonstrated that the Government can and does take actions against individuals and organizations not because they have committed any crime, but because someone in Washington does not like their politics.

But, to my mind, as important as it is to realize what the Government is capable of, it is even more important to realize that it is our rights and liberties which we stand to lose, every bit as much as our jobs and our reputations. Former Chief Justice Louis D. Brandeis in his famous dissent in the Olmstead case in 1928 wrote that—

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness . . . They conferred as against the Government, the right to be let alone—the most comprehensive of rights, and the right most valued by civilized men.

We have all found that one's "right to be let alone" by the Government is far from absolute—that it often gives way for the greater public good. But I think that Brandeis meant that the Bill of Rights at the very least guarantees us that the Government shall not arbitrarily intrude itself into our lives without good reason. Hence, we have the fourth amendment which provides that no search warrant shall be issued except upon probable cause that a crime has been committed. We have the first amendment which protects us against recriminations by the Government for what we say. But, as Justice Oliver Wendell Holmes once wrote, even it will not prevent the arrest of a person who yells "fire" in a crowded theater. The right of the individual, in that case, gives way to the greater public good.

My point, then, is that when we realize that the Government is intruding itself into our personal lives, we owe it to ourselves and to the democracy we live in to ask "Why."

What purpose is derived? Why, for example, should the FBI be paying informants to attend meetings of groups who are suspected of committing no crime? Why should the CIA be opening the mail of individuals who are suspected of committing no crime? What public purpose is served by the Army's keeping files on the political activities of 100,000 individuals who were not suspected of committing any crime? These things happened, and yet no one in the Government questioned them—no one asked "why?"

It bothers me still, that even after these activities have been exposed, and after they have been discontinued, that many people still see nothing wrong, no threat to their own liberty, in their having occurred. People tell me that these

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agencies were only keeping track of individuals and organizations in the event they should decide to do something wrong—that they were only protecting us.

I would submit, Mr. President, that this is one kind of protection we can do without. It is dangerous and clearly contrary to the Constitution because it allows Government to insinuate itself into our lives without a good reason. If we accepted this suggestion of Government power, it would allow the Government to send informants to every private meeting held in the United States, to tap every phone, to read every letter. After all, who knows what it might discover in time.

The end result would be to make us watch what we say, watch what we write, take care with regard to the groups we join or the petitions we sign. In short, the result of accepting Government snooping would be to discourage people from taking the very risks the first amendment is there to encourage.

I myself have been struck by this very feeling. As a member of the Select Committee on Intelligence, I was provided with the file that the FBI maintained on me. To my surprise, the file included a report of my activities at conventions of the National Association of Attorneys General, which I attended several years ago as attorney general of North Carolina. There was nothing very remarkable in the report, but it astounded me to learn that the FBI had directed one of its agents to file a report on my activities at the convention. I do not know why such a report was asked for.

I do not know whether similar reports were filed on other States attorneys general at the convention. But it gave me an idea about how far things had gone, especially in the light of the fact that of the 11 members of the select committee, the FBI had maintained files on all 11, which indicates that it was not just a happenstance that those files were maintained on the 11 who happened to be the committee. And it worried me that such files were available, and how they might be used. As much as I might like to say that the FBI's keeping files on my political and professional activities will have no bearing upon my actions, I cannot, in all candor, say that I will be able to totally disregard it. Who can be certain that his judgment will not be swayed, perhaps even subconsciously, by the realization that he is being watched by the FBI? How many Senators could say with certainty that they would not exercise greater caution in speaking their minds or casting their votes, if they knew that the FBI was keeping book on them and might imperil their political futures?

I suspect the "chilling effect" might be even worse for the citizen who did not have, as we have, an awareness of the legal and administrative means of redress at his disposal, or ready access to the media. If one lacked the confidence that he could successfully challenge the Government, he would undoubtedly be more inclined to keep quiet and avoid rocking the boat.

Mr. President, I do think that suspicion about the Government has quieted in recent months principally because most of the objectionable activities of the intelligence agencies have been disclosed and, as a result, discontinued. But I genuinely feel that if these activities had not been exposed and challenged, that our society was on the way to becoming something of a police state. In time, it may have become too overwhelming to control.

For the future, I think the best way to insure that the intelligence agencies do not infringe upon constitutionally-protected activities, and, at the same time, inspire confidence in the American people, is for Congress to enact legislation spelling out specifically the circumstances under which Government can undertake investigations of its citizens. We have seen that allowing the FBI or any of our intelligence agencies to investigate individuals and groups for reasons other than the fact that they are suspected of violating the law, is an extremely dangerous enterprise. It is dangerous because there is no stopping point. In the past, we have allowed the Government to have this power, and we have left it to the Government to decide when to use it. This, in my opinion, must change.

It has been the principal reason for the abuses we have seen, and poses the greatest threat to our constitutional liberties in the future. As Woodrow Wilson said in 1912:

Liberty has never come from the government. Liberty has always come from the subjects of it. The history of liberty is a history of resistance. The history of liberty is a history of limitations of government power, not the increase of it.

Mr. President, I yield the floor.

#### CORRECTION OF THE RECORD

MR. TOWER. Mr. President, my statement entitled "The Full Employment and Balanced Growth Act" in the Record of June 4, 1976, beginning at page S8539, contains several typographical errors, the most important of which appears on page S8540 in the middle column. The Record should reflect my statement as follows:

I am unwilling, myself, to leave this country with such a choice.

Mr. President, so that the Record may be clear, I ask unanimous consent that my entire statement, as corrected, be reprinted in today's Record, and that the permanent Record be corrected accordingly.

THE PRESIDING OFFICER. Without objection, it is so ordered.

#### THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

MR. TOWER. Mr. President, the Senate Committee on Banking, Housing and Urban Affairs has completed 3 days of hearings on S. 50: the so-called Full Employment and Balanced Growth Act.

Better known as the Humphrey-Hawkins bill, this piece of legislation must be taken seriously because, as noted by Senator Proxmire at the beginning of the hearings, the Humphrey-Hawkins bill "is supported by every Democratic Presidential candidate with the possible exception of George Wallace." Today, I would like to summarize the testimony on Humphrey-Hawkins which was presented to the Banking Committee.

Humphrey-Hawkins would begin by establishing an institutional structure which would be used to greatly increase the role of Government planning in the economy. Increasing the role of Government planning, of course, means decreasing the role of the free market. In a working paper submitted for the record on S. 50, Dr. Murray L. Weidenbaum quotes from an analysis by John Jewkes of Britain's experiences with centralized planning.

I believe that the recent melancholy decline of Great Britain is largely of our own making. . . . At the root of our troubles lies the fallacy that the best way of ordering economic affairs is to place the responsibility for all crucial decisions in the hands of the State."

In that same paper, Dr. Weidenbaum concludes:

National planning is a centralized process in which the key economic decisions are made in the form of governmental edicts. The greatest danger of adopting a form of centralized economic planning is that it will, perhaps unintentionally at first but inevitably as its initial results prove disappointing, propel the society away from market freedoms and toward greater governmental controls over individual behavior.

The Humphrey-Hawkins planning apparatus would initially develop a plan using Government spending, Government jobs, and expansion of the money supply to drive the unemployment rate for "adults" down to 3 percent or less within 4 years. However, Humphrey-Hawkins does not specify what constitutes "adult" unemployment. Some supporters apparently feel that "adult" unemployment should be defined as the rate for persons 16 years old and older seeking work. Other supporters argue that "adult" unemployment should be defined as the rate for persons 18 years old and older.

Using the latter definition, it should be noted that the last year during which the unemployment rate for persons 18 years old and older averaged 3 percent or less was during the Korean war. Not even the inflationary Government spending and credit-creation policies of the Vietnam era were able to drive the unemployment rate down to 3 percent. Those policies were sufficient, however, to ignite and inflation that threw this country into its worst recession in 40 years. It should be remembered, too, that during both the Korean and Vietnam wars, there were over 3.5 million men in the Armed Forces. If "adult" unemployment were defined as the rate for persons 16 years old and older, the cost of the Humphrey-Hawkins policies in terms of inflation and in terms of the depth of the resulting recession would

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COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Director				On 7 June, Senator Morgan of the Senate Select Committee on Intelligence made further remarks regarding "freedom and intelligence in this country." I am attaching for your information the relevant pages from the Congressional Record.
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